

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ARIEL CHAVAN and SEAN CHAVAN,

Plaintiffs,

v.

IRIS RAYN COHEN, a/k/a, IRIS RAYN
YOUNGBLOOD, a/k/a, TAYLOR COHEN,
a/k/a, TAYLOR JAE WRIGHT, a/k/a JESSICA
D. WRIGHT, a/k/a JASON WRIGHT, a/k/a
JAYSON WRIGHT, a/k/a JT WRIGHT, a/k/a
JAY WRIGHT, a/k/a CHRIS REED, a/k/a
CHRIS CH, a/k/a CHRIS CHAVAN, a/k/a
CHRIS GRAHAM, a/k/a JESSICA AKE,

Defendant.

No. C13-01823 RSM

ORDER GRANTING PLAINTIFFS' MOTION
FOR LEAVE TO FILE SECOND AMENDED
COMPLAINT

This matter comes before the Court on Motion for Leave to File a Second Amended Complaint by Plaintiffs Ariel and Sean Chavan. Dkt. # 13. Plaintiffs filed their initial Complaint on October 9, 2013, setting forth claims for violations of the Stored Communications Act, 18 U.S.C. § 2701, *et seq.*, the Wiretap Act, 18 U.S.C. § 2510, *et seq.*, and invasion of privacy by electronic impersonation, RCW 4.24.790, against Defendant "John Doe." Dkt. # 1. After obtaining leave to take expedited third-party discovery, Plaintiffs filed their First Amended Complaint on December 17, 2013, identifying Defendant as Jessica D. Wright and adding factual allegations. Dkt. # 7. To date, Defendant has failed

1 to answer or otherwise enter an appearance in this action, and default was entered against her on
2 February 3, 2014. Dkt. # 12. Having since received communications from another alleged victim of
3 Defendant and initiated subsequent investigations, Plaintiffs now move to file an amended complaint
4 in order to add newly discovered factual information and clarify allegations that they would have
5 sought to prove at trial, but for Defendant's default. *See* Dkt. # 13.

6 Pursuant to Federal Rule of Civil Procedure 15(a)(2), a party may amend a pleading more than
7 21 days after service "only with the opposing party's written consent or the court's leave. The court
8 should freely give leave when justice so requires." Courts apply this policy with "extreme liberality."
9 *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1051 (9th Cir. 2003). Five factors are
10 commonly used to assess the propriety of granting leave to amend: (1) bad faith, (2) undue delay, (3)
11 prejudice to the opposing party, (4) futility of amendment, and (5) whether plaintiff has previously
12 amended the complaint. *Allen v. City of Beverly Hills*, 911 F.2d 367, 373 (9th Cir. 1990); *Foman v.*
13 *Davis*, 371 U.S. 178, 182 (1962). Absent a strong showing of any of these factors, "there exists a
14 *presumption* under Rule 15(a) in favor of granting leave to amend." *Eminence Capital*, 316 F.3d at
15 1052 (emphasis in original).

16 Plaintiffs obtain the benefit of such a presumption in the instant matter. Plaintiffs have not
17 manifested any bad faith motive or caused undue delay but rather seek to timely add additional names
18 and aliases of Defendant and clarify factual allegations and requests for relief upon uncovering new,
19 relevant information. As Defendant is in default, having failed to participate in this suit, she will not
20 suffer prejudice by amendment of the pleadings. There is no indication that amendment would be
21 futile, where it adds factual clarity to the previous pleading. Finally, Plaintiffs seek leave to amend for
22 the first time, having amended once as a matter of course to substitute Defendant's then-known names
23 and aliases for the previous "John Doe" pleading in order to affect service.

24 As the relevant factors weigh in favor of granting leave to amend and Plaintiffs have fully
25 complied with the procedural requirements of Local Civil Rule 15, the Court hereby ORDERS that
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1 Plaintiffs' Motion for Leave to File a Second Amended Complaint is GRANTED. Upon entry of this
2 Order, Plaintiffs shall file the Second Amended Complaint, attached as Exhibit A to the instant
3 Motion, and serve it on Defendant in accordance with Local Rule 15.

4 Dated this 28th day of May 2014.

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6 RICARDO S. MARTINEZ
7 UNITED STATES DISTRICT JUDGE
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